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OFFICE OF PETITIONS

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130

In re Application of
Anderson et al
Application No. 09/717,478
Filed: Nov. 20, 2000

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: **DECISION GRANTING PETITION**
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This decision is in response to Applicants' "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)" filed on May 13, 2005 requesting that the Office adjust the PTA determination at the time of the issuance of the patent from 20 days to 140 days to 305 days.

Applicants' petition to correct PTA is **GRANTED**. The Office will adjust the PTA at the time of the issuance of the patent to ONE HUNDRED AND FORTY (140) days. The Office will also *sua sponte* issue a certificate of correction reflecting this decision.

Applicants argue that the Office erred in assessing a one hundred and twenty (120) day reduction for the submission of drawings under 37 CFR 1.704(c)(10). Applicants allege that the submission of the drawings were simply a request to resubmit the same drawings that Office inadvertently wrote on during the prosecution of the application. Accordingly, the applicants assert that the drawings were proper as submitted prior to reduction and the re-submission was a courtesy to the Office.

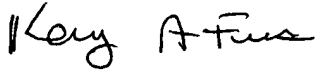
Applicant arguments as well as calculations are persuasive. The record reflects that the Office did inadvertently mark on the drawings submitted initially on August 22, 2002. Moreover, the submission of the drawings on August 23, 2004 were the exact same drawings that were submitted on August 22, 2002. Under the facts and circumstances of this application, the applicants were merely providing a courtesy to the Office and therefore did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10) by submitting such drawings.

Accordingly, the Office delay under 37 CFR 1.702(a)(1), (2), & (4) was one hundred and eighty two (182) days. Applicants' delay equaled forty-two (42) days under 37 CFR 1.704(b). Overall the proper amount of PTA is 140 (182-42=140).

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the certificate of correction.

The Office has assessed the \$200.00 fee. No additional fees are required in deciding this petition matter.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor,
Office of Patent Legal Administration at 571-272-7757.

A handwritten signature in black ink that reads "Kery Fries". The signature is written in a cursive, flowing style.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation
Draft Certificate of Correction